
Status: Point in time view as at 11/07/2023.

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STATUTORY INSTRUMENTS

2010 No. 906

FINANCIAL SERVICES AND MARKETS

The Credit Rating Agencies Regulations 2010

<i>Made</i>	- - - -	<i>22nd March 2010</i>
<i>Laid before Parliament</i>		<i>23rd March 2010</i>
<i>Coming into force</i>	- -	<i>7th June 2010</i>

The Treasury are a government department designated for the purposes of section 2(2) of the European Communities Act 1972^{M1} in relation to—

- (a) credit ratings and credit rating agencies^{M2};
- (b) credit and financial institutions and the taking of deposits or other repayable funds from the public^{M3}; and
- (c) measures relating to investment firms and to the provision of investment services^{M4}.

The Treasury, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and section 349(1)(b) of the Financial Services and Markets Act 2000^{M5}, make the following Regulations:

Modifications etc. (not altering text)

- C1** Regulations: power to modify conferred (11.7.2023) by [Financial Services and Markets Act 2023](#) (c. 29), ss. 3, 86(3), [Sch. 1 Pt. 2](#); S.I. 2023/779, reg. 2(d)
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Marginal Citations

- M1** 1972 c.68; section 2(2) was amended by section 27(1)(a) of the [Legislative and Regulatory Reform Act 2006](#) (c.51) and by the Schedule to the [European Union \(Amendment\) Act 2008](#) (c.7).
- M2** S.I. 2009/3214.
- M3** S.I. 2001/3495.
- M4** S.I. 1993/2661.
- M5** 2000 c. 8.

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PART 1

General

Citation and commencement

1. These Regulations may be cited as the Credit Rating Agencies Regulations 2010 and shall come into force on 7th June 2010.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Financial Services and Markets Act 2000;

^{F1} ...

“the EC Regulation” means Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies ^{M6}[^{F2}, as amended by Regulation (EU) No. 513/2011 of the European Parliament and of the Council of 11 May 2011 amending Regulation (EC) No. 1060/2009 on credit rating agencies];

^{F3} ...

[^{F4}“the FCA” means the Financial Conduct Authority.]

“overseas competent authority” means an authority designated by a Member State other than the United Kingdom in accordance with Article 22(1) of the EC Regulation (competent authorities);

“protected item” has the same meaning as in section 413 of the Act (protected items).

(2) Expressions used in these Regulations which are listed in Article 3 of the EC Regulation (definitions) have the meaning given in that Article.

- | | |
|-----------|---|
| F1 | Words in reg. 2(1) omitted (1.4.2013) by virtue of The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472) , Sch. 2 para. 188(a)(i) |
| F2 | Words in reg. 2(1) inserted (1.7.2011) by The Credit Rating Agencies (Amendment) Regulations 2011 (S.I. 2011/1435) , regs. 1, 4(a)(i) |
| F3 | Words in reg. 2(1) omitted (31.12.2020) by virtue of The Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/266) , regs. 1(3), 50(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1) |
| F4 | Words in reg. 2(1) inserted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472) , Sch. 2 para. 188(a)(ii) |

Marginal Citations

M6 OJ L 302, 17.11.2009, p. 1.

PART 2

[^{F5}The Financial Conduct Authority]

- | | |
|-----------|---|
| F5 | Words in Pt. 2 heading substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472) , Sch. 2 para. 188(b) |
|-----------|---|

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Designation of competent authority

3. [F6The FCA] is the competent authority for the purposes of the EC Regulation.

F6 Words in reg. 3 substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 188(c)

Fees

F7 4.

F7 Reg. 4 omitted (1.7.2011) by virtue of The Credit Rating Agencies (Amendment) Regulations 2011 (S.I. 2011/1435), regs. 1, 4(b) (with reg. 5)

Disclosure of confidential information

5. Section 348(1) of the Act (restrictions on disclosure of confidential information by [F8FCA, PRAetc]) does not prevent the [F9FCA] from disclosing confidential information where the disclosure is permitted by the EC Regulation.

F8 Words in reg. 5 substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 188(d)(i)

F9 Word in reg. 5 substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 188(d)(ii)

Guidance

6.—(1) The [F10FCA] may give guidance consisting of such information and advice as it considers appropriate with respect to any matter relating to the functions of the [F10FCA] under the EC Regulation.

(2) The [F10FCA] may—

- (a) publish its guidance;
- (b) offer copies of its published guidance for sale at a reasonable price;
- (c) if it gives guidance in response to a request made by any person, make a reasonable charge for that guidance.

F10 Word in reg. 6 substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 188(e)

Miscellaneous

7. The functions of the [F11FCA] under the EC Regulation are to be treated for the purposes of [F12Part 1 (general) and paragraphs 16 (status) and 33 (exemption from liability in damages) of Schedule 1ZA] to the Act as functions conferred on the [F11FCA] under the Act.

F11 Words in reg. 7 substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 188(f)(i)

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F12 Words in reg. 7 substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 188(f)(ii)

F13 PART 3

Applications for certification and registration

F13 Pts. 3-8 omitted (1.7.2011) by virtue of The Credit Rating Agencies (Amendment) Regulations 2011 (S.I. 2011/1435), regs. 1, 4(d)

Language for applications

8.

Approval decisions

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F13 PART 4

Investigatory Powers

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F13 PART 5

Supervisory measures

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F13 PART 6

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Financial penalties

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Publication of penalties

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Offences relating to investigatory powers

24.

Offence of misleading the Authority

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Offences by bodies corporate etc

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Proceedings for offences

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Unincorporated associations

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^{F13}PART 7

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Appeals

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^{F13}PART 8

Notices

Application of Part 26 of the Act

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PART 9

Capital Requirements Regulations 2006

Amendments to the Capital Requirements Regulations 2006

^{F14}31.

F14 Reg. 31 revoked (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), [Sch. 3](#)

[^{F15}PART 10

ESMA: investigatory powers

F15 Pt. 10 inserted (1.7.2011) by [The Credit Rating Agencies \(Amendment\) Regulations 2011 \(S.I. 2011/1435\)](#), regs. 1, [4\(e\)](#)

Records of telephone and data traffic: Article 23c(1)(e) of the EC Regulation

^{F16}32.

F16 Regs. 32-34 omitted (31.12.2020) by virtue of [The Credit Rating Agencies \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/266\)](#), regs. 1(3), [50\(3\)](#) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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Inspections: Article 23d of the EC Regulation

^{F16}33.

F16 Regs. 32-34 omitted (31.12.2020) by virtue of [The Credit Rating Agencies \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/266\)](#), regs. 1(3), **50(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Offences: Article 23d inspections

^{F16}34.]

F16 Regs. 32-34 omitted (31.12.2020) by virtue of [The Credit Rating Agencies \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/266\)](#), regs. 1(3), **50(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Bob Blizzard
Dave Watts
Two of the Lords Commissioners of Her
Majesty's Treasury

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (“the EC Regulation”) (OJ L 302, 17.11.2009, p. 1).

The EC Regulation establishes a registration system for credit rating agencies, and requires registered agencies to comply with various provisions relating to independence, conflicts of interest, employees and analysts, methodologies and models, outsourcing, and disclosure and presentation of information. Specified financial institutions may only use credit ratings for regulatory purposes if they have been issued or endorsed by a registered credit rating agency, or issued by an overseas agency that has been certified in accordance with the EC Regulation.

Part 2 of the Regulations designates the Financial Services Authority (“the Authority”) as the competent authority in the United Kingdom for the purposes of the EC Regulation.

Part 3 makes provision relating to applications for certification and registration.

Part 4 makes provision for the investigatory powers of the Authority.

Part 5 provides powers for the Authority to take action where a credit rating agency breaches obligations arising from the EC Regulation.

Part 6 creates penalties and offences which may apply if a person breaches a requirement of the EC Regulation or these Regulations.

Part 7 makes provision for appeals and Part 8 provides for notices.

Part 9 amends the Capital Requirements Regulations 2006 (S.I. 2006/3221) to implement Article 2(3) of the EC Regulation in relation to external credit assessment institutions.

An Impact Assessment of the effect of these Regulations is available on HM Treasury's website (www.hm-treasury.gov.uk) and is annexed to the Explanatory Memorandum which is available alongside these Regulations on the OPSI website (www.opsi.gov.uk).

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